

Atty. Docket No. CQ10196
PATENT APPLICATION

RESPONSE UNDER 37 C.F.R. § 1.116
U.S. Application No. 09/981,735

Claim Rejections

Claims 1-20 are all the claims pending in the application. The Examiner has rejected claims 1-4, 8-11, 15, 16 and 19-20 under 35 U.S.C. 103(a) as being allegedly unpatentable over Kamura (JP 404097685A) in view of Ojala (WO/98194458) and Pelletier (U.S. patent publication No. 2002/0130955A1). The Examiner has rejected claims 5-6, 12-13 and 17 under 35 U.S.C. 103(a) as being allegedly unpatentable over Kamura (JP404097685A) in view of Ojala (WO/98194458) and Pelletier (U.S. patent publication No. 2002/0130955A1) as applied to claims 1, 8 and 17 and further in view of Kikuchi et al. (JP 363142779A). The Examiner has rejected claims 7, 14 and 18 under 35 U.S.C. 103(a) as being allegedly unpatentable over Kamura (JP404097685A) in view of Ojala (WO/98194458) and Pelletier (U.S. patent publication No. 2002/0130955A1) as applied to claims 1, 8 and 18 and further in view of Kishimoto (JP 410282564A).

Applicants respectfully traverse these rejections. Specifically, all of the above rejections are overcome at least by the submission of the attached DECLARATION OF PRIOR INVENTION TO OVERCOME CITED PATENT OR PUBLICATION Under 37 C.F.R. § 1.131, duly executed by co-inventor John BORECZKY, and evidence appended thereto. Applicants respectfully submit that the attached declaration and evidence appended thereto establish that the invention as claimed in the pending claims was conceived prior to the filing date of the Pelletier reference and was diligently constructively reduced to practice by the preparation and filing of the patent application. Accordingly, Applicants respectfully submit that the Pelletier patent publication is not available as a valid reference against the pending claims and that, consequently, all of the pending rejections have been overcome.

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Time of Presentation of the Declaration

The aforesaid declaration is being submitted after final rejection, but before filing of an appeal. This declaration could not have been submitted earlier, before the Final Rejection, because the reference that is being removed (Pelletier) has been first cited by the Examiner in the Final Rejection. As stated above, the attached declaration of John BORECZKY overcomes all pending claim rejections. Thus, a good and sufficient reason exists why the present declaration and other evidence is necessary and was not earlier presented.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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MOUNTAIN VIEW OFFICE

23493

CUSTOMER NUMBER

Date: September 25, 2006

Respectfully submitted,


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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this RESPONSE 37 C.F.R. § 1.116 is being facsimile transmitted to the U.S. Patent and Trademark Office this 25th day of September, 2006.



Mariann Tam